

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL SHORTER,

Plaintiff,

v.

SULLIVAN, *et al.*,

Defendants.

Case No. 1:20-cv-01823-NONE-BAM (PC)

ORDER CONSTRUING PLAINTIFF'S
RESPONSE TO AMENDED STANDING
ORDER AS A MOTION FOR SERVICE AND
MOTION FOR A COPY OF LOCAL RULES
(ECF No. 17)

ORDER DENYING PLAINTIFF'S MOTION
FOR SERVICE AND FOR A COPY OF
LOCAL RULES
(ECF No. 17)

Plaintiff Michael Shorter ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On August 5, 2021, the undersigned issued findings and recommendations recommending that the federal claims in this action be dismissed, with prejudice, based on Plaintiff's failure to state a cognizable claim upon which relief may be granted, and the Court decline to exercise supplemental jurisdiction over Plaintiff's purported state law claims. (ECF No. 12.) Following an extension of time, Plaintiff filed objections on October 4, 2021. (ECF No. 15.) Those findings and recommendations are currently pending before the District Judge.

On October 28, 2021, Chief District Judge Mueller issued an Order of Clarification: No District Judge Available to Hear Matters, which explained the current status of civil Unassigned/NONE cases such as the instant action, in light of the continued judicial emergency in this district. (ECF No. 16.)

1 Currently before the Court is Plaintiff's response to that order, filed December 2, 2021.
2 (ECF No. 17.) In his response, Plaintiff requests that the Court effect service on the defendants in
3 this action, as well as a copy of the Local Rules. (*Id.*) The Court construes the filing as a motion
4 for service pursuant to Federal Rule of Civil Procedure 4 and a motion for a copy of the Local
5 Rules.

6 Plaintiff's request for service is premature. The undersigned has recommended that the
7 federal claims in this action be dismissed, with prejudice, based on Plaintiff's failure to state a
8 cognizable claim upon which relief may be granted, and that the Court decline to exercise
9 supplemental jurisdiction over Plaintiff's purported state law claims. While those findings and
10 recommendations have not yet been adopted by the District Judge, if the findings and
11 recommendations are adopted, this action will be dismissed. If the District Judge finds instead
12 that Plaintiff has stated cognizable claims upon which this action should proceed, the Court will
13 then order service on the appropriate defendant(s). Plaintiff does not need to request service.

14 With respect to Plaintiff's request for a copy of the Local Rules, Plaintiff is advised that
15 the Court generally does not send litigants free copies of rules or case law, and any deviation
16 from that standard practice represents an exception which must be justified. Copies of the
17 Court's Local Rules should be available to Plaintiff from the law library at his institution.

18 Accordingly, IT IS HEREBY ORDERED as follows:

- 19 1. Plaintiff's response to the amended standing order, (ECF No. 17), is CONSTRUED as a
20 motion for service and a motion for a copy of the Local Rules;
- 21 2. Plaintiff's motion for service, (ECF No. 17), is DENIED as premature; and
- 22 3. Plaintiff's motion or a copy of the Local Rules, (ECF No. 17), is DENIED.

23
24 IT IS SO ORDERED.

25 Dated: December 6, 2021

/s/ Barbara A. McAuliffe
26 UNITED STATES MAGISTRATE JUDGE